

ESTTA Tracking number: **ESTTA693159**

Filing date: **09/02/2015**

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Notice of Opposition

Notice is hereby given that the following party opposes registration of the indicated application.

Opposer Information

Name	Bevi Clean GmbH
Granted to Date of previous extension	09/02/2015
Address	INDUSTRIESTRASSE 18 HALSENBACH, 560283 GERMANY
Party who filed Extension of time to oppose	FRIEDRICH BERSCH
Relationship to party who filed Extension of time to oppose	Bevi Clean GmbH is the successor in interest to the mark and U.S. Registration No. 1633695 for BEVI, previously owned by Friedrich Bersch. A copy of the assignment record, which has been recorded with the USPTO, is attached as Exhibit A.
Domestic Representative	Neil F. Greenblum Greenblum & Bernstein, PLC 1950 Roland Clarke Place Reston, VA 20191 UNITED STATES eteas@gbpatent.com Phone:703-716-1191

Applicant Information

Application No	86451533	Publication date	05/05/2015
Opposition Filing Date	09/02/2015	Opposition Period Ends	09/02/2015
Applicant	Hydration Labs, Inc. 28 Dane Street Somerville, MA 02143 UNITED STATES		

Goods/Services Affected by Opposition

Class 011. First Use: 2014/09/08 First Use In Commerce: 2014/09/08
All goods and services in the class are opposed, namely: Refrigerated beverage dispensing units; Temperature-controlled food and beverage dispensers, and components thereof; Water coolers

Grounds for Opposition

Priority and likelihood of confusion	Trademark Act section 2(d)
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Mark Cited by Opposer as Basis for Opposition

U.S. Registration No.	1633695	Application Date	02/23/1989
Registration Date	02/05/1991	Foreign Priority Date	09/01/1988
Word Mark	BEVI		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 007. First use: First Use: 0 First Use In Commerce: 0 BEVERAGE CONDUIT CLEANING SYSTEM, COMPRISING A SHUTTLE VALVE AND FLOW-REVERSING CLEANING ELEMENTS WHICH ACTUATE THE SHUTTLE OF THE VALVE; BEVERAGE CONDUIT CLEANING SYSTEM, COMPRISING A PUMP, A SHUTTLE VALVE, AND FLOW-REVERSING CLEANING ELEMENTS WHICH ACTUATE THE SHUTTLE OF THE VALVE		

Attachments	Notice of Opposition (02507319).pdf(25496 bytes) Exhibit A (02507179).pdf(60718 bytes) Exhibit B (02507180).pdf(161848 bytes)
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Certificate of Service

The undersigned hereby certifies that a copy of this paper has been served upon all parties, at their address record by First Class Mail on this date.

Signature	/Jeffrey H. Handelsman/
Name	Jeffrey H. Handelsman
Date	09/02/2015

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

_____)	
Bevi Clean GmbH ¹)	
)	Opposition No. _____
Opposer,)	
)	Application Serial
v.)	No. 86451533
)	
)	Published in the Trademark
Hydration Labs, Inc.)	Official Gazette on:
DBA Refresh Water)	
)	May 5, 2015
)	
Applicant.)	
_____)	

NOTICE OF OPPOSITION

Opposer, Bevi Clean GmbH, a limited liability company organized under the laws of Germany, having a business address at Industriestrasse 18, Halsenbach, Germany 560283 (“Opposer”), believes that it will be damaged by registration of the mark shown in U.S. Trademark Application Serial No. 86451533 (the “Opposed Application”), and hereby opposes the same, pursuant to 15 U.S.C. § 1063 and 37 CFR § 2.104.

As grounds for the opposition, it is alleged, upon information and belief that:

1. Opposer is and has been engaged in the sale and marketing of goods in the United States under the “BEVI” trademark (“Opposer’s Mark”) since a time prior to the date of filing of the Opposed Application and Applicant’s alleged first use date.

2. Opposer is the owner of the valid United States Trademark Reg. No. 1633695 for the mark “BEVI”, used in connection with the following goods:

Beverage conduit cleaning system, comprising a shuttle valve and

¹ Bevi Clean GmbH is the successor in interest to the mark and U.S. Registration No. 1633695 for BEVI, previously owned by Friedrich Bersch. A copy of the assignment record, which has been recorded with the USPTO, is attached hereto as Exhibit A.

flow-reversing cleaning elements which actuate the shuttle valve;
Beverage conduit cleaning system, comprising a pump, a shuttle
valve, and flow-reversing cleaning elements which actuate the
shuttle of the valve, in International Class 7;

3. The Patent and Trademark Office issued Registration No. 1633695 for Opposer's Mark on February 5, 1991, which is prior to the Applicant's alleged first use date and filing date.

4. Opposer's Mark is incontestable under 15 U.S.C. § 1065, and is *prima facie* evidence of the validity of the registered mark, of Opposer's ownership thereof, and of Opposer's exclusive right to use the BEVI mark in commerce under 15 U.S.C. § 1115. A copy of this registration is attached hereto as Exhibit B.

5. By the application herein opposed, Applicant seeks to register the mark "BEVI" ("Applicant's Mark") for the following goods:

Refrigerated beverage dispensing units; Temperature-controlled food and beverage dispenses, and components thereof; Water coolers , in International Class 11

6. Applicant's Mark was published in the *Official Gazette* on May 5, 2015.

7. Applicant had constructive knowledge of Opposer's Mark before filing its Application.

8. Opposer's Mark is inherently distinctive and represents the valuable good will associated with Opposer's goods.

9. Applicant's Mark is identical to Opposer's Mark and is likely, when applied to the goods of the Applicant, to cause confusion, to cause mistake or to deceive under 15 U.S.C. 1052(d).

10. Consumers encountering Applicant's Mark and associated goods are likely to believe that such goods originate from or are authorized or sponsored by Opposer.

11. The goods sold in connection with Applicant's Mark are closely related and travel in the same channels of trade as those used in connection with Opposer's Mark.

12. Upon information and belief, if Applicant were granted the

registration applied for, it would diminish the value and dilute the distinctiveness of Opposer's Mark.

13. Issuance of a registration to Applicant for the mark BEVI would restrict and impair Opposer's right to develop and expand its use of Opposer's Mark, and would otherwise cause injury and damage to Opposer's Mark, as well as its goodwill and reputation.

WHEREFORE, Opposer prays that Application Serial No. 86451533 for Applicant's Mark be refused registration with respect to the goods specified in the application, and that this Opposition be sustained in favor of Opposer.

Opposer appoints Greenblum & Bernstein, P.L.C., 1950 Roland Clarke Place, Reston, Virginia 20191-1411 to act as attorneys for Opposer herein, with full power to transact all relevant business with the U.S. Patent and Trademark Office and in the United States Courts and to receive all official communications in connection with this opposition.

Opposer submits with the electronic filing herewith payment of the \$300.00 filing fee. If any additional fees are due, the Office and Board are authorized to charge Greenblum & Bernstein, P.L.C.'s Deposit Account No. 19-0089.

Respectfully submitted,

Bevi Clean GmbH

Dated: September 2, 2015

By /s/ Jeffrey H. Handelsman
Jeffrey H. Handelsman
Jill M. Browning
Greenblum & Bernstein, P.L.C.
1950 Roland Clarke Place
Reston, VA 20191
Ph: (703) 716-1191
Fax: (703) 716-1180
Attorneys for Opposer

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true copy of the foregoing Notice of Opposition was served on Applicant's counsel, at its address of record, via First Class

Mail, postage prepaid, as follows:

Rory P. Pheiffer, Esq.
Nutter McClennen & Fish LLP
155 Seaport Blvd.
Boston, Massachusetts 02210

Date: September 2, 2015

/Jeffrey H. Handelsman/
Jeffrey H. Handelsman

EXHIBIT A



UNITED STATES PATENT AND TRADEMARK OFFICE

UNDER SECRETARY OF COMMERCE FOR INTELLECTUAL PROPERTY AND
DIRECTOR OF THE UNITED STATES PATENT AND TRADEMARK OFFICE

AUGUST 28, 2015

PTAS

JEFFREY H. HANDELSMAN
1950 ROLAND CLARKE PLACE
RESTON, VA 20191

900335420

UNITED STATES PATENT AND TRADEMARK OFFICE NOTICE OF RECORDATION OF ASSIGNMENT DOCUMENT

THE ENCLOSED DOCUMENT HAS BEEN RECORDED BY THE ASSIGNMENT RECORDATION BRANCH OF THE U.S. PATENT AND TRADEMARK OFFICE. A COMPLETE COPY IS AVAILABLE AT THE ASSIGNMENT SEARCH ROOM ON THE REEL AND FRAME NUMBER REFERENCED BELOW.

PLEASE REVIEW ALL INFORMATION CONTAINED ON THIS NOTICE. THE INFORMATION CONTAINED ON THIS RECORDATION NOTICE REFLECTS THE DATA PRESENT IN THE PATENT AND TRADEMARK ASSIGNMENT SYSTEM. IF YOU SHOULD FIND ANY ERRORS OR HAVE QUESTIONS CONCERNING THIS NOTICE, YOU MAY CONTACT THE ASSIGNMENT RECORDATION BRANCH AT 571-272-3350. PLEASE SEND REQUEST FOR CORRECTION TO: U.S. PATENT AND TRADEMARK OFFICE, MAIL STOP: ASSIGNMENT RECORDATION BRANCH, P.O. BOX 1450, ALEXANDRIA, VA 22313.

RECORDATION DATE: 08/25/2015

REEL/FRAME: 5609/0627
NUMBER OF PAGES: 3

BRIEF: NUNC PRO TUNC ASSIGNMENT EFFECTIVE 12/29/2013

DOCKET NUMBER: T43955

ASSIGNOR:
FRIEDRICH BERSCH

DOC DATE: 08/18/2015
CITIZENSHIP: GERMANY
ENTITY: CORPORATION

ASSIGNEE:
BEVI CLEAN GMBH

INDUSTRIESTRASSE 18
HALSENBACH, GERMANY 560283

CITIZENSHIP: GERMANY
ENTITY: LIMITED LIABILITY COMPANY

SERIAL NUMBER: 73782590
REGISTRATION NUMBER: 1633695
MARK: BEVI
DRAWING TYPE: TYPESET WORD(S) /LETTER(S) /NUMBER(S)

FILING DATE: 02/23/1989
REGISTRATION DATE: 02/05/1991

ASSIGNMENT RECORDATION BRANCH
PUBLIC RECORDS DIVISION

EXHIBIT B

Int. Cl.: 7

Prior U.S. Cl.: 23

United States Patent and Trademark Office

Reg. No. 1,633,695

Registered Feb. 5, 1991

**TRADEMARK
PRINCIPAL REGISTER**

BEVI

FRIEDRICH BERSCH (FED REP GERMANY
CORPORATION)
INDUSTRIESTRASSE 18
HALSENBAACH, FED REP GERMANY

FOR: BEVERAGE CONDUIT CLEANING
SYSTEM, COMPRISING A SHUTTLE VALVE
AND FLOW-REVERSING CLEANING ELE-
MENTS WHICH ACTUATE THE SHUTTLE OF
THE VALVE; BEVERAGE CONDUIT CLEAN-
ING SYSTEM, COMPRISING A PUMP, A SHUT-
TLE VALVE, AND FLOW-REVERSING

CLEANING ELEMENTS WHICH ACTUATE
THE SHUTTLE OF THE VALVE, IN CLASS 7
(U.S. CL. 23).

PRIORITY CLAIMED UNDER SEC. 44(D) ON
FED REP GERMANY APPLICATION NO.
B85312/7WZ, FILED 9-1-1988, REG. NO. 1130171,
DATED 11-7-1988, EXPIRES 9-1-1998.

SER. NO. 73-782,590, FILED 2-23-1989.

STEVEN R. FINE, EXAMINING ATTORNEY

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Mark: BEVI

US Serial Number: 73782590 Application Filing Date: Feb. 23, 1989
US Registration Number: 1633695 Registration Date: Feb. 05, 1991
Register: Principal
Mark Type: Trademark
Status: The registration has been renewed
Status Date: Feb. 07, 2011
Publication Date: Nov. 13, 1990

Mark Information

Mark Literal Elements: BEVI
Standard Character Claim: No
Mark Drawing Type: 1 - TYPESET WORD(S) /LETTER(S) /NUMBER(S)

Foreign Information

Priority Claimed: Yes
Foreign Application Number: B85312/7WZ Foreign Application Filing Date: Sep. 01, 1988
Foreign Registration Number: 1130171 Foreign Registration Date: Nov. 07, 1988
Foreign Application/Registration Country: GERMANY Foreign Expiration Date: Sep. 01, 1998

Goods and Services

Note: The following symbols indicate that the registrant/owner has amended the goods/services:

- Brackets [] indicate deleted goods/services;
- Double parenthesis ((.)) identify any goods/services not claimed in a Section 15 affidavit of incontestability; and
- Asterisks *.* identify additional (new) wording in the goods/services.

For: BEVERAGE CONDUIT CLEANING SYSTEM, COMPRISING A SHUTTLE VALVE AND FLOW-REVERSING CLEANING ELEMENTS WHICH ACTUATE THE SHUTTLE OF THE VALVE; BEVERAGE CONDUIT CLEANING SYSTEM, COMPRISING A PUMP, A SHUTTLE VALVE, AND FLOW-REVERSING CLEANING ELEMENTS WHICH ACTUATE THE SHUTTLE OF THE VALVE

International Class(es): 007 - Primary Class

U.S Class(es): 023

Class Status: ACTIVE

Basis: 44(e)

Basis Information (Case Level)

Filed Use: No	Currently Use: No	Amended Use: No
Filed ITU: No	Currently ITU: No	Amended ITU: No
Filed 44D: Yes	Currently 44D: No	Amended 44D: No
Filed 44E: No	Currently 44E: Yes	Amended 44E: Yes
Filed 66A: No	Currently 66A: No	
Filed No Basis: No	Currently No Basis: No	

Current Owner(s) Information

Owner Name: FRIEDRICH BERSCH

Owner Address: INDUSTRIESTRASSE 18
HALSENBACH
GERMANY

Legal Entity Type: CORPORATION

State or Country Where GERMANY
Organized:

Attorney/Correspondence Information

Attorney of Record

Attorney Name: Neil F. Greenblum
Attorney Primary Email Address: eteas@gbpattent.com

Docket Number: T43339
Attorney Email Yes
Authorized:

Correspondent

Correspondent Name/Address: Neil F. Greenblum
Greenblum & Bernstein
1950 Roland Clarke Place
Reston, VIRGINIA 20191
UNITED STATES

Phone: 703-716-1191

Fax: 703-716-1180

Correspondent e-mail: eteas@gbpattent.com

Correspondent e-mail Yes
Authorized:

Domestic Representative

Domestic Representative Name: Neil F. Greenblum

Phone: 703-716-1191

Fax: 703-716-1180

Domestic Representative e-mail: eteas@gbpattent.com

Domestic Representative e-mail Yes
Authorized:

Prosecution History

Date	Description	Proceeding Number
Aug. 25, 2015	ATTORNEY REVOKED AND/OR APPOINTED	
Aug. 25, 2015	TEAS REVOKE/APPOINT ATTORNEY RECEIVED	
Mar. 17, 2014	TEAS CHANGE OF CORRESPONDENCE RECEIVED	
Feb. 07, 2011	REGISTERED AND RENEWED (SECOND RENEWAL - 10 YRS)	68502
Feb. 07, 2011	REGISTERED - SEC. 8 (10-YR) ACCEPTED/SEC. 9 GRANTED	
Feb. 04, 2011	TEAS SECTION 8 & 9 RECEIVED	
Jul. 23, 2010	TEAS CHANGE OF CORRESPONDENCE RECEIVED	
Dec. 12, 2008	CASE FILE IN TICRS	
Oct. 20, 2006	REVIEW OF CORRESPONDENCE COMPLETE	59315
Apr. 03, 2006	PAPER RECEIVED	
Mar. 16, 2001	REGISTERED AND RENEWED (FIRST RENEWAL - 10 YRS)	
Mar. 16, 2001	REGISTERED - SEC. 8 (10-YR) ACCEPTED/SEC. 9 GRANTED	
Nov. 02, 2000	REGISTERED - COMBINED SECTION 8 (10-YR) & SEC. 9 FILED	
Oct. 16, 1996	REGISTERED - SEC. 8 (6-YR) ACCEPTED & SEC. 15 ACK.	
Aug. 09, 1996	REGISTERED - SEC. 8 (6-YR) & SEC. 15 FILED	
Feb. 05, 1991	REGISTERED-PRINCIPAL REGISTER	
Nov. 13, 1990	PUBLISHED FOR OPPOSITION	
Oct. 13, 1990	NOTICE OF PUBLICATION	
May 21, 1990	APPROVED FOR PUB - PRINCIPAL REGISTER	
May 09, 1990	EXAMINER'S AMENDMENT MAILED	
May 02, 1990	EXAMINER'S AMENDMENT MAILED	
Jan. 02, 1990	FINAL REFUSAL MAILED	
Nov. 02, 1989	CORRESPONDENCE RECEIVED IN LAW OFFICE	
Sep. 14, 1989	NON-FINAL ACTION MAILED	
Jul. 26, 1989	CORRESPONDENCE RECEIVED IN LAW OFFICE	

Apr. 28, 1989

NON-FINAL ACTION MAILED

Maintenance Filings or Post Registration Information

Affidavit of Continued Use: Section 8 - Accepted

Affidavit of Incontestability: Section 15 - Accepted

Renewal Date: Feb. 05, 2011

TM Staff and Location Information

TM Staff Information - None

File Location

Current Location: GENERIC WEB UPDATE

Date in Location: Feb. 07, 2011

Assignment Abstract Of Title Information

Summary

Total Assignments: 1

Registrant: FRIEDRICH BERSCH

Assignment 1 of 1

Conveyance: NUNC PRO TUNC ASSIGNMENT EFFECTIVE 12/29/2013

Reel/Frame: 5609/0627

Pages: 3

Date Recorded: Aug. 25, 2015

Supporting Documents: [assignment-tm-5609-0627.pdf](#)

Assignor

Name: FRIEDRICH BERSCH

Execution Date: Aug. 18, 2015

Legal Entity Type: CORPORATION

State or Country Where Organized: GERMANY

Assignee

Name: BEVI CLEAN GMBH

Legal Entity Type: LIMITED LIABILITY COMPANY

State or Country Where Organized: GERMANY

Address: INDUSTRIESTRASSE 18
HALSENBACH, GERMANY 560283

Correspondent

Correspondent Name: JEFFREY H. HANDELSMAN

Correspondent Address: 1950 ROLAND CLARKE PLACE
RESTON, VA 20191

Domestic Representative

Domestic Representative Name: NEIL F. GREENBLUM

Domestic Representative Address: 1950 ROLAND CLARKE PLACE
RESTON, VA 20191